

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICARD WALTER TAYLOR,

Petitioner,

Case No. 1:18-cv-809

v.

Honorable Paul L. Maloney

GREGORY SKIPPER,

Respondent.

/

ORDER REGARDING LEAVE TO PROCEED *IN FORMA PAUPERIS* ON APPEAL

This is a habeas corpus action brought by a state prisoner under 28 U.S.C. § 2254. On November 30, 2018, the Court entered a judgment denying the petition. (ECF No. 14.) The Court also denied Petitioner a certificate of appealability. (ECF No. 13.) Petitioner now has filed a notice of appeal. Petitioner is seeking leave to proceed on appeal *in forma pauperis*. (ECF No. 17.)

Federal Rule of Appellate Procedure 3(e) provides that the appellant must pay all required fees at the time a notice of appeal is filed with the district court. The docketing fee for a case on appeal is \$500.00. *See* 28 U.S.C. § 1913; 6 Cir. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Sept. 1, 2018). In addition, under 28 U.S.C. § 1917, a \$5.00 filing fee must be paid to the district court. Petitioner has failed to pay the required fees.

A prisoner who is unable to pay the required filing fees may seek leave to appeal in a § 2254 action *in forma pauperis* pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure. *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997). Petitioner has complied with Rule 24(a), which requires him to file a motion for leave to proceed *in forma pauperis* and an

affidavit showing his inability to pay the required fees (as prescribed by Form 4 of the Appendix of Forms), his belief that he is entitled to redress, and a statement of the issue he intends to present on appeal. The documents show that Petitioner is unable to pay the filing and docket fees required for an appeal. In light of his indigence, Petitioner may proceed *in forma pauperis* on appeal without pre-paying or giving security for fees and costs. Fed. R. App. P. 24(a)(2). Therefore, Petitioner is not required to pay the \$505.00 fee for filing an appeal. *See Kincade*, 117 F.3d at 951 (holding that 28 U.S.C. § 1915(b) provides that the fee provisions of the Prison Litigation Reform Act of 1995 do not apply to an appeal from a decision on an application for habeas relief).¹

IT IS ORDERED that Petitioner's motion for leave to proceed *in forma pauperis* on appeal (ECF No. 17) is **GRANTED**.

Dated: January 16, 2019

/s/ Ray Kent

Ray Kent

United States Magistrate Judge

¹ This Court notes that under 28 U.S.C. § 2254 and Rule 24(a)(3) of the Federal Rules of Appellate Procedure, it is not required to address whether the instant appeal is taken in good faith because Petitioner did not proceed *in forma pauperis* in the district court. *See* 28 U.S.C. § 2254; Fed. R. App. P. 24(a)(3).